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# POSH

Prevention Of Sexual Harrasment

## Live

*A quarterly insight to the POSH Law!*

By Vaishali Bhagwat, Adv

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**POSH LIVE** brings to you updates and information relating to matters of sexual harassment irrespective of the gender and age. This is an effort to create awareness about laws relating to sexual harassment and any form of discrimination.

## **POSH Regulations in Higher Educational Institutes**

Sexual harassment takes its grave form when it is by a Professor and the victim is a student. The relation of a student and teacher is considered to be the sacred one and when that foundation is broken, it affects the society as a whole. We have often heard of sexual harassment complaints from students from educational institutes and how those have impacted the mental health of victims and ultimately the society.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is applicable to colleges, and higher educational/technical institutes as well. UGC and AICTE have issued guidelines on 'prevention and redressal of sexual harassment' which are to be read with the POSH Act, 2013. We will in this article understand the Regulations given by UGC to prevent, prohibit and redress sexual harassment.

### **Who can file a complaint of sexual harassment?**

An aggrieved woman or any student can file a complaint to the Internal Committee constituted as per provisions of **University Grant Commission (Prevention, Prohibition and Redressal of sexual harassment of women employees and students in higher education institutions) Regulations 2015**

Section 2(a) of these Regulations define aggrieved woman as **“aggrieved woman** means in relation to workplace, or a woman of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent.

## GOOD TO KNOW!

### Display of IC list on notice board – Update by Local Committee, WCD Pune (as per press note released in January, 2024)

It is imperative not only to constitute the 'Internal Committee' but also to display the list of members of Internal Committee along with their contact details on the notice boards or at such places where it is visible at workplace.

The recent press note issued by the Local Committee, Pune requires employers to mention the following details on such notice and to send the photograph of the same to the Local Committee Pune.

Following points should be included in the notice –

1. Name and address of the Company
2. Contact details of contact person from the Company
3. Internal Committee details like name, contact number, date when the same was constituted
4. Mention of Provision as per section 13 (3)(1) and section 13(3)(2)
5. Women Helpline Number – 181
6. Emergency Response Support System Number – 112
7. Contact details of Nodal Officer for respective taluka as applicable

**Section 2(l) defines "student"** as a person duly admitted and pursuing a programme of study either through regular mode or distance mode, including short term training programmes in HEI;

Provided that a student who is in process of taking admission in the campus of HEI, although not yet admitted, shall be treated, for the purpose of these regulations, as a student of HEI; where any incident of sexual harassment takes place against such student;

Provided that a student who is participant in any activities in HEI other than HEI where such student is enrolled, shall be treated, for the purpose of these regulations as a student of that HEI, where any incident of sexual harassment takes place against such student.

### Constitution of Internal Committee in HEI –

The Internal Committee will have following composition –

1. **Presiding Officer** – who shall be a woman employed at senior level (nominated by Executive Authority)
2. **2 Faculty members and 2 Non-teaching members** (committed to the cause of women and have some experience in social work or some legal knowledge; nominated by Executive Authority)
3. **3 students**, if the matter involves students (elected through transparent democratic procedure)
4. **One member from NGO/associations** committed to the cause of women or a person familiar with the issues relating to sexual harassment (Nominated by Executive Authority)

At least half of the total members of IC, must be women.

Persons in senior administrative positions in HEI, such as Vice Chancellor, Pro Vice Chancellors, Rectors, Registrar, Deans, Head of the Departments etc shall not be the members of Internal Committee

### Responsibilities of Higher Education Institutes as per UGC Regulations are –

1. Publicly notify the provisions against sexual harassment
2. Organize training programmes or workshops for officers, faculty and students as indicated in SAKSHAM report (Measures for ensuring Safety of Women and Programmes for Gender Sensitization on Campuses) of the Commission
3. Act decisively against all gender based violence recognizing the vulnerable groups
4. Implement zero tolerant policy towards sexual harassment
5. Create awareness regarding hostile work environment and quid pro quo

6. Include in prospectus and display on notice boards the penalty and consequences of sexual harassment and make all sections of institutional community aware of the information on the mechanism put in place for redressal of complaints pertaining to sexual harassment
7. Organize regular orientation programmes for IC members
8. Treat sexual harassment as a violation of disciplinary rules
9. Ensure compliance with the provisions of regulations given by UGC
10. Prepare annual reports and submit to the Commission

#### **Consequences on non-compliance –**

The Commission shall, in respect of any institution that fully fails to comply or repeatedly fails to comply with the obligations and duties laid out for prevention, prohibition and redressal of sexual harassment, may take one or more of the following actions -

1. Withdrawal of declaration of fitness to receive grants under section 12B of University Grant Commission Act, 1956
2. Removing the name of college from the list maintained by the Commission;
3. Withholding any grant allocated to the institution
4. Declaring the institution ineligible for consideration for any assistance under any of the general or special assistance programmes of the Commission
5. Informing the general public, including potential candidates for employment or admission, through a notice displayed prominently in the newspapers or other suitable media and posted on the website of the Commission; declaring that the institution does not provide zero tolerance policy against sexual harassment
6. Recommending the affiliating university for withdrawal of affiliation, in case of a college
7. Recommending the central government for withdrawal of declaration as an institute deemed to be university in case of deemed University
8. Recommending the appropriate State Government for withdrawal of status as University in case of University established or incorporated under State Act
9. Taking such other action within its powers as it may deem fit and impose such other penalties as may be provided in the All India Council for Technical Education Act, 1987/UGC Act, 1956 for such duration of time till the institution complies with the provisions of these regulations.

The UGC Regulation is significant in creating safe and discrimination free education for women and vulnerable groups as it places legal obligation on Higher Educational Institutions to build a campus free from discrimination, harassment, retaliation and sexual assault at all levels.

#### **NEWS CORNER**

### **Rape, molestations unearthed at Gujarat National Law University – “Really Scary”, says High Court**

Incidents of molestation, rape, homophobia, discrimination have been reported in campus of Gujarat National Law University by a fact finding committee that submitted its report to Gujarat High Court in February, 2024. HC had taken suo moto cognizance of media reports following social media posts that a girl was raped and as a queer student was sexually harassed and formed a committee headed by former judge Harsha Devani. Earlier the ICC had brushed aside the allegations. HC has directed a high level investigation into GNLU’s affairs by a competent authority as there are complaints against the registrar as well as the director.

### Adv Vaishali Bhagwat



Advocate Vaishali Bhagwat, is amongst the first technology lawyers in the country with prior qualification and working experience in the field of Computer Science, Cyber Defense and Information Assurance.

Her work also focuses on women and children's rights and has worked extensively on cases relating to violence against women and children including sexual violence. Vaishali is an external member on various ICC committees and has conducted several complex inquiries relating to sexual harassment at workplace. POSH awareness and capacity building workshops conducted by her are rich in content as she discusses various cases and draws on her experience dealing with inquiries and POSH related court litigation including criminal cases.

Vaishali has advised several organizations across varied sectors on POSH compliance, safety in virtual workplaces, cyber safety and is also regularly invited as an expert speaker/ panelist on this subject by various organizations providing POSH services

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